

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT
OF INDIANA
2004 FEB -6 AM 10:01
LAURA A. BRIGGS
CLERK

Lannie H. Smith, IV,

Plaintiff,

v.

No.

Syndicated Office Systems, Inc., a
California corporation, d/b/a Central
Financial Control,

Defendant.

1:04-CV-0276 RLY - TAB

COMPLAINT

Plaintiff, Lannie H. Smith, IV, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a declaration that the form of Defendant's debt collection letter violates the FDCPA, and to recover damages by reason of Defendant's violation of the FDCPA, and alleges:

JURISDICTION AND VENUE

1. The jurisdiction of the Court is invoked as authorized by § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.

2. Venue is proper in this District because the acts and transactions occurred here, Plaintiff Smith resides here, and Defendant transacts business here.

PARTIES

3. Plaintiff, Lannie H. Smith, IV, is a citizen of the State of Indiana residing in the Southern District of Indiana from whom Defendant attempted to collect a consumer debt allegedly owed to Winona Memorial Hospital.

4. Defendant, Syndicated Office Systems, Inc., d/b/a Central Financial Control ("CFC"), is a California corporation who from its office in Missouri acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails to collect, or attempt to collect, consumer debts, including debts in the Southern District of Indiana.

FACTUAL ALLEGATIONS

5. Defendant CFC sent Plaintiff Smith a form collection letter, dated February 15, 2003, demanding payment of a consumer debt. This letter stated, in pertinent part:

* * *

You have failed to resolve your account despite our repeated requests for payment. You should know that no other notices or demands need to be given. Our client may consider alternative collection action, including but not limited to, referral to an outside attorney for possible litigation.

A payment to Central Financial Control within the next seven days would certainly help avoid any possible future actions that may be deemed necessary to collect this debt.

This has been sent by a collection agency, Central Financial Control. This is an attempt to collect a debt and any information obtained will be used for that purpose.

* * *

This letter was sent within one year of the date of this Complaint and is attached as Exhibit A.

6. The statements in Defendant's form collection letters are to be interpreted under the "unsophisticated consumer" standard. (See, Bartlett v. Heibl, 128 F.3d 497, 500 (7th Cir. 1997); Chauncey v. JDR, 118 F.3d 516, 519 (7th Cir. 1997); Avila v. Rubin, 84 F.3d 222, 226 (7th Cir. 1996); and, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994)).

7. Section 1692e of the FDCPA prohibits Defendant CFC from making any false, deceptive or misleading statements while attempting to collect debts. Defendant CFC's letter violates § 1692e of the FDPCA by falsely threatening litigation when neither CFC, nor its client, files suit to collect small sums like the \$50.80 allegedly owed by Plaintiff -- certainly a Missouri based collection agency would not be filing suit against a debtor in Indiana for this small sum.

8. Defendant's violation of § 1692e of the FDCPA renders it liable for statutory damages, costs, and reasonable attorneys' fees. (See, 15 U.S.C. § 1692k).

PRAYER FOR RELIEF

Plaintiff, Lannie H. Smith, IV, prays that this Court:

1. Declare that the form of Defendant CFC's collection letter violates the FDCPA;
2. Enter judgment in favor of Smith and against Defendant, for statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff, Lannie H. Smith, demands trial by jury.

Lannie H. Smith,



One of Plaintiff's Attorneys

Dated: February 6, 2004

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